IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.11.2023

PRONOUNCED ON : 22.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

**W.P.Nos.22258, 22265, 22337 and 26821 of 2017 and
W.M.P.Nos.23368, 23422, 23421, 23369, 23371,
23372, 28538 & 28539 of 2017**

K.Darcus ...Petitioner in W.P.22258/17

B.Venkatesan ...Petitioner in W.P.22265/17

R.Venkatachalam ...Petitioner in W.P.22337/17

A.Banumathi ...Petitioner in W.P.26821/17

Vs.

1. The Competent Authority (ULC) and
   the Assistant Commissioner (ULT),
   Kundrathur, No.153, Karuneegar Street,
   Adambakkam, Chennai – 600 088.

2. The Tahsildar,
   Maduravoyal Taluk,
   Chennai – 600 095. ...Respondents in all the WPs

Prayer in all the WPs: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for records of 1st respondent in Re.1204/91(A) dated 29.01.1992 U/s.9/5 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1978 in respect of excess land in Survey No.18 of Valasaravakkam Village, Maduravoyal Taluk to quash the same by treating the proceedings referred to above as abated under Section 4 of the Tamil Nadu Urban Land Ceiling and Regulation Repeal Act 20 of 1999 and for the reason impugned proceeding initiated against the dead person and to direct the second respondent to correct the entries in the revenue records by incorporating the ownership as per sale deed in Document No.1731 of 2000, Sub-Registrar Office, Virugambakkam, incorporating the petitioner's name as the owner of the land in Survey No.18/6 Valarasaravakkam Village, Maduravoyal Taluk, incorporating the petitioner's name as owner of the land in Survey No.18 Valarasaravakkam Village, Maduravoyal Taluk in so far as petitioner's extent of land as per sale deed in Document No.296 of 1987 of Sub-Registrar Office, Virugambakkam and include the said extent in Electronic Patta No.12054 issued by the second respondent and to incorporate the petitioner's name as the owner of the land in Survey No.18/4 of Valasaravakkam Village, Maduravoyal Taluk in so far as the petitioner's extent of land as per the sale deed in Document No.300 of 1987 dated 11.02.1987 on the file of the Sub-Registrar Office, Virugambakkam, respectively.

For Petitioner : Mr.K.Sakthivel in all the WPs

For Respondents : Mr.P.Gurunathan,
Addl. Government Pleader in all the WPs

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COMMON ORDER

The writ petitioners filed these writ petitions seeking to quash the proceedings initiated under the TamilNadu Urban Land (Ceiling and Regulation) Act, 24 of 78 (in short 'the Act'), against their respective land and extend benefits under Section 4 of the Repeal Act 20 of 1999.

2 The issue involved in all the writ petitions is one and the same and hence all the writ petitions are disposed of by this common order.

3 The brief facts of the case of all the writ petitioners is that originally the lands comprised in Survey Nos.17, 18, 19, 20, 21 and Punja Survey No.30, 32/1A and 29 of Valasaravakkam Village belonged to one Alamelu Ammal. She died on 09.02.1985, leaving behind her husband Chockalinga Gramani and her daughter Shenbagavalli Ammal and the said

Chockalinga Gramani also died on 25.10.1985. Thereafter their daughter developed the property by obtaining no objection from the authority concerned to construct residential buildings on 16.06.1986. Husband of the writ petitioner in W.P.No.22258/2017 has purchased Plot No.113 comprised in Survey No.18 & 19, Valasaravakkam Village from one Anil Kumar and Usha Anil Kumar vide sale deed dated 12.04.2000. The writ petitioner in W.P.No.22265/2017 purchased Plot No.124 in S.No.18 directly from Shenbagavalliammal vide sale deed dated 28.02.1989. The writ petitioner in W.P.No.22337/2017 purchased Plot No.121 in S.Nos.17, 18 and 20 vide sale deed dated 11.02.1987 directly from the Shenbagavalliammal. The writ petitioner in W.P.No.26821/2017 has purchased Plot No.122 in S.No.18 directly from the Shenbagavalliammal vide sale deed dated 12.02.1987. The respondents sent notice under Section 11(5) to surrender possession of excess land of Alameluammal stating that the draft statement under Section 9(5) of the Act dated 23.04.1992 was issued in respect of S.Nos.17, 19, 20, 23, 30, 32(1)(A) of Valasaravakkam Village. Thereafter the petitioners' Association Sri Lakshmi Nagar Welfare Association preferred J1/9562/97 dated 12.12.1997 with the Principal Commissioner who passed an order dated 12.12.1997 cancelling the Notification under Section 11(1) & 11(3) in respect of Sr.No.17, 19, 20, 23, 30, 32(1)(A) of Valasaravakkam Village and the Principal Commissioner has also not dealt in respect of S.No.18. On enquiry it came to know that two proceedings under the Act were initiated against the Alamelu Ammal and one is cancelled as stated supra and the other one is in respect of S.No.18. On the date of Repeal Act came into force, the petitioners were in possession of the property and now also the petitioners are in possession of the property and therefore proceedings initiated under the Act got abated. Therefore the present writ petitions have been filed.

4 Learned counsel appearing for the writ petitioners would submit that the petitioners and their vendors have been in possession of the land from 1987, but they have not been issued with any notice regarding proceeding under the Act. Further respondents initiated proceedings under the Act against the dead person. One Alamelu Ammal, who was the original owner of the acquired property, died on 09.02.1985 itself and hence the very initiation of proceedings under the Act, without even serving notice to the persons, who are in possession of the property, itself is illegal. All the notices were served only by way of affixture, which is impermissible as per Rule 8 of the Act.

4.1 Further the learned counsel contended that even now the alleged surplus lands are under the physical possession and enjoyment of the petitioners. The property tax and the electricity bills will establish the factum of possession with the land owners.

4.2 The learned counsel appearing for the writ petitioners further submitted that when the Repeal Act 20 of 1999 came into existence, the entire proceedings of the second respondent got abated and hence the lands in question has to be given to the petitioners. On the date when the Repeal Act came into force, the petitioners are in possession of the lands in question and hence proceedings under the Old Act got lapsed. Therefore the petitioners are entitled to retain their respective land.

5 Learned Additional Government Pleader appearing for the respondents contended that since the subject lands of the petitioners were attracted under the provisions of the TamilNadu Urban Land (Ceiling and Regulation) Act, and since the original owner Alamelu Ammal failed to file return under Section 7(1) of the Act, on the basis of the report of the Depurty Tahsildar, a notice under Section 7(2) of the Act was issued on 08.11.1990, which was served by affixture on 12.11.1990. Thereafter as per the Act, notice was issued requesting to file objection, if any, for the proposed acquisition, which was served by affixture. However, neither the land owner Alamelu Ammal nor the legal representatives filed their objections and hence after serving notices as contemplated under the Act, final notice under Section 11(5) of the Act was issued requesting the land owner to surrender possession of excess vacant land. The excess vacant land was vested with the Government from 01.02.1995 and possession of the excess land was taken over by the revenue authorities on 20.01.1997 and necessary entries have also been made in the revenue records. Therefore entire acquisition proceeding attained finality much prior to the Repeal Act came into force and hence the question of abatement under Section 4 of the Repeal Act shall not arise in this case. Further, the petitioners have not taken any steps for mutation of the revenue records. The respondents after verifying the revenue records found that the lands stood in the name of Alamelu Ammal and hence initiated proceeding under the Act. Therefore at any angle, the proceedings initiated under the Act is valid and the writ petition is liable to be dismissed.

6 Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

7 It is the main contention of the learned counsel for the petitioners that the proceedings under the Act was initiated against the dead person and no notice was served on the petitioners, who are in possession of the lands.

8 It is seen from the death certificate of the urban land owner viz. Alamelu Ammal that she died on 14.02.1985. The Act came into force on 03.08.1976, which was enacted with a view to impose ceiling on vacant land in Urban Agglomerations and to prevent concentration of urban land in the hands of a few person. The urban land owner failed to file the return as per the Act. Therefore the respondent initiated proceedings under the Act and sent notice under Section 7(2) of the Act, which was served by affixture, but, neither the legal heir of the urban land owner, nor the petitioners who are said to have been in possession of the land raised any objections. If at all as contended by the learned counsel for the petitioners, the petitioners are in possession of the land, they should have raised objections, since the notices were served by affixture.

9 Further, the petitioners have not taken any steps for mutation of the revenue records for more than 20 years and when the respondent served final notice under Section 11(5) of the Act to surrender the possession, the petitioners rushed this Court challenging the same raising the above said grounds. If at all the petitioners are in physical possession of the lands, they should have raised objections before the competent authority, since the notices were served by way of affixture before the presence of Village Administrative Officer, Valasaravakkam Village. Further since the land is a vacant land, which comes under the ceiling limit of the Act, it was acquired as per the provisions of the Act. No documents to show that the petitioners are owners of the property, when proceedings under the Act was initiated.

10 The respondents after verifying the revenue records found that the lands stood in the name of Alamelu Ammal and hence initiated proceeding under the Act and after following the mandatory provisions under the Act, finally excess vacant land was acquired and taken over by the revenue authorities on 20.01.1997 and necessary entries have also been made in the revenue records reflecting that the lands belong to the Government. Therefore the contention of the learned counsel for the petitioners is not acceptable.

11 The other grievance of the writ petitioners is that they are still in possession of the land and the second respondent did not send any notice on the petitioners. Even now the alleged surplus lands are under the physical possession and enjoyment of the petitioners and hence when the Repeal Act 20 of 1999 came into existence, the entire proceedings of the second respondent got abated.

12 Admittedly one Alamelu Ammal was the original owner of the subject properties and she died on 09.02.1985. She has not filed any returns under Section 7(1) of the Act, the first respondent initiated proceedings under Section 9(11) of the Act. Thereafter as per the Act, notice was issued requesting to file objection, if any, for the proposed acquisition, which was served by affixture. However, it is seen neither the land owner Alamelu Ammal nor the legal representatives filed their objections and hence after serving notices as contemplated under the Act, final notice under Section

11(5) of the Act was issued requesting the land owner to surrender possession of excess vacant land. If at all the petitioners are in physical possession of the vacant lands, they should have raised objection, but the petitioners have not raised any objections. Hence since there was no obstruction, there was no forceful possession under Section 11(6) of the Act. The excess vacant land was vested with the Government from 01.02.1995 and possession of the excess land was taken over by the revenue authorities on 20.01.1997 and necessary entries have also been made in the revenue records. On the date of Repeal Act came into force, the land was vested with the Government and there is no record to show that on the date of Repeal Act came into force, the land stood in the name of the petitioners. If the petitioners were in physical possession of the land, they should have produced any document to show that on the date of Repeal Act came into force they are in possession of the lands and revenue records also muted in their names and subsequently the mutation continued in the name of the petitioners. Therefore as per the records, entire acquisition proceeding attained finality on 20.01.1997 much prior to the Repeal Act came into force and hence the petitioners are not entitled to get benefits under Section 4 of the Repeal Act.

13 For the foregoing reasons, the petitioners are not entitled to get the relief sought for in these writ petitions and accordingly all the writ petitions are dismissed. Consequently connected miscellaneous petitions are closed. No costs.

22.12.2023

Index: Yes/No
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To

1. The Principal Commissioner & Commissioner of
   Land Reforms, Chepauk, Chennai – 5.

2. The Competent Authority,
   Urban Land Ceiling, Coimbatore.

P.VELMURUGAN, J.,

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Pre-Delivery Order in
W.P.Nos.22258, 22265, 22337 and 26821 of 2017 and
W.M.P.Nos.23368, 23422, 23421, 23369, 23371,
23372, 28538 & 28539 of 2017

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